

Concerning the

MILITIA

A Declaration of the Lords and Commons in Parliament, concerning His Majesties Proclamation, given at His Court at York, the 27 of May 1642. VVith the Statute of the 7. Edw. 1.

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Die Jovis 9. Jun. 1642.

Ordered by the Lords in Parliament, That these severall Letters, and Resolutions should be forth with Printed and Published.

John Brown, Cler. Parliamentar.

LONDON.

Printed for Edward Blackmore, June 11. 1642.

A Declaration of the Lords and Commons in Parliament, concerning His Majesties Proclamation the 27. of May 1564.



He Lords and Commons having perused His Majesties Proclamation, forbidding all His Majesties Subjects, belonging to the Trained-Bands, or Militia of this Kingdome, to rise, march, muster, or exercise, by virtue of any Order or Ordinance of any one or both Houses of Parliament, without consent or Warrant from His Majesty, upon paine of punishment according to the Lawes,

Do hereby declare, That neither the Statute of the seventh of Edward the first therein vouched, nor any other Law of this Kingdom doth restraîne, or make void the Ordinance agreed upon by both Houses of Parliament, for the ordering and disposing the Militia of the Kingdome, in this time of extreme and imminent danger, nor expose His Majesties Subjects to any punishment for obeying the same, Notwithstanding that His Majesty hath refused to give his Consent to that Ordinance: But ought to be obeyed by the fundamentall Lawes of this Kingdome.

The Declaration of 7.Ed. 1. Quoted in His Majesties Proclamation; runneth thus :

THe King to the Justices of His Bench sendeth greeting: Whereas of late before certain Passes departed is went upon sundry debates, and controversies, and certain great men of Our Realm, Amongst other things it was accorded, That in Our next Parliament, after provision should be made by Us, and the common Assent of the Prelates, Bishops, and Barons, That in all Parliaments, Treaties, and other Assemblies which should be made in the Realm of England for ever, That every man shall come without force and Armour, well and peaceably to the Honour of Us, and the peace of Us, and Our Realm. And now in our next Parliament at Westminster, after the said Treaties, the Prelates, Bishops, Barons, and the Commonalty of Our Realm, there assembled, to take Advice of this businesse have said, That to Us it belongeth, and Our part is through Our Royall Seignory straightly to defend force of Armour, and all other force against Our Peace at all times when it shall please Us, and to punish them which shall do contrary according to Our Lawes and Usages of Our Realm.

And hereby to them are bound to aide us, as their Sovereign Lord at all seasons, when need shall be. We command you, that you cause these things to be read afore you in the said Bench, and there to be Inrolled.

Given at Westminster the thirtieth day of October.

THe occasion of this Declaration was for the restraint of Armed men from coming to the Parliament, to disturb the Peace of it, and is very improperly alledged for the maintenance of such Leavies, as are now raised against the Parliament. The title of the Statute being thus, To all Parliaments, and Treaties, every man shall come without Force and Armes. So that the Question is not, whether it belong to the King or no to restraîne such force, But if the King shall refuse to discharge that Duty and Trust, Whether there is not a power in the two Houses, to provide for the safety of the Parliament, and Peace of the Kingdom, which is the end, for which the Ordinance concerning the Militia was made, and being agreeable to the scope & purpose of the Law, cannot in Reason be adjudged to be contrary to it; For although the Law do affirm it to be in the King, yet it doth not exclude those,

to whom the Law hath placed a power for that purpose: As in the Courts of Justice, the Sheriffs, and other Officers and Ministers of those Courts. And as their power is derived from the King by His Patents, yet cannot it be restrained by His Majesties command, by His great Seale, or otherwise, much lesse can the Power of Parliament be concluded by His Majesties command, because the Authority thereof is of a higher, and more eminent nature than any of those Courts.

It is acknowledged, That the King is the Fountaine of Justice, and Protection: But the Acts of Justice, and Protection, are not exercised in His own Person, nor depend upon His pleasure, but by His Courts, and by His Ministers, who must doe their Duty thereat, though the King in his own Person should forbid them; And therefore, if Judgements should be given by them against the Kings Will and Personall command, yet are they the Kings Judgements.

The High Court of Parliament, is not only a Court of Judicature, enabled by the Lawes, to adjudge, and determine the Rights, and Liberties of the Kingdom, against such Patents, and Grants of His Majesty, as are prejudiciall thereunto; although strengthened both by His Personall Command, and by His Proclamation, under the great Seale. But it is likewise a Councell to provide for the necessities, prevent the imminent dangers, and preserve the publick Peace and safety of the Kingdom, and to declare the Kings pleasure in those things as are requisite thereunto; and what they do herein, hath the Stamp of Royall Authority, although His Majesty seduced by evill Councell, do in His own Person, oppose or interrupt the same. For the Kings Supream Power, and Royall Pleasure, is exercised and declared in this High Court of Law, and Councell after a more eminent and obligatory manner, then it can be by any personall Act or Resolution of His Own.

Seeing therefore the Lords and Commons; which are His Majesties great and Highest Councell, have ordained, That for the present and necessary Defence of the Realm, the Trained Bands, and Militia of this Kingdom should be ordered according to that Ordinance. And that the Town of *Paul* should be committed to the Custody of Sir *John Hopton*, to be preserved from the attempts of Papists and other malignant persons, who thereby might put the Kingdome into a combustion, which is so farre from being a Force against the Kings peace, that it is necessary for the keeping & securing thereof, and for that end alone is intended, and all his Majesties loving Subjects, as well by that Law as by other Lawes, are bound to be obedient thereunto, and what they doe therein is according to that Law to be interpreted to be done in ayd of the King, in discharge of that Trust which he is tied to performe: and it is so farre from being liable to punishment, that if they should refuse to do it, or be perswaded by any Commission or Command of his Majesty to doe the contrary, they might justly be punished for the same, according to the Lawes and Usages of the Realm: for the King, by his Sovereignty, is not enabled to destroy his people, but to protect and defend them; and the high Court of Parliament, and all other his Majesties Officers, and Ministers, ought to be subservient to that Power and Authority, which the Law hath placed in his Majesty to that purpose, though he himself in his own person should neglect the same.

Wherefore the Lords and Commons doe declare the said Proclamation to be voyd in Law, and of none effect, For that by the Constitution and Policy of this Kingdom, the King by his Proclamation cannot declare the Law contrary to the Judgement and Resolution of any of the inferiour Courts of Justice, much lesse against the High Court of Parliament; for if it were admitted, that the King by his Proclamation may declare a Law, thereby his Proclamations will in effect become Lawes, which would take away the Sovereignty of the Law of the Land, and the Rights, and Liberties of the Subjects.

And the Lords and Commons doe require and command, all Constables, Petty-Con-

stables, and all other his Majesties Officers, and Subjects whatsoever, to muster, levie, arm, march, and exercise, or to summon or waite any upon warlike from the Lieutenants, Deputy-Lieutenants, Captains, or other Officers of the trained Bands, and all others according to the said Ordinance of both Houses; and shall not presume to muster, levie, raise, marse, or exercise, by vertue of any Commission, or other Authority whatsoever, as they will answer the contrary at their perils; and in their so doing, they do further declare, That they shall be protected by the power and authority of both Houses of Parliament. And that whosoever shall oppose, question, or hinder them in the execution of the said Ordinance, shall be proceeded against as violators of the laws, & disturbers of the peace of the Kingdom.

The Lord Willoughby of Parham his Letter to an Honourable Member of the House of Parliament.

My Lord,



Received a Letter from your Lordship, in which the House is pleased to doe me a very great Honour, far above any desert of mine, and little expected by me: for, my Lord, I well know, my obedience ties me to fulfill their commands, and in that I have done, I have done but my duty, and that which every honest man ought to doe, and oweth of right to the Parliament; and whosoever hath that principle in him, it will dictate to him as much; and keep him from other by-ways. And for my owne part, my heart ever was, and shall ever be, both forward and ready to obey their Lordships commands in all things, both with integrity and industry, and Gods curse light upon him and his, that carries any other heart about him. My Lord, it is too mean a way for me to expresse my acknowledgements in paper to the House for this high favour, which I have received by your Lordships Letter. I hope to make it appear by my actions, that their Lordships see I am not an ungratefull servant. It is a great encouragement to these parts, their Lordships Resolutions, in giving their commands to have the rest of the *Militia* put in present execution; and truly, my Lord, it was out of that regard that I did intimate it to my Lord of *Essex*, as holding it a thing much conducing to the publike good; and the only remedy to cure these distractions, which the Kingdom is in, not out of any regard to my selfe; for I know, if I suffer in executing their Lordships commands, it must be against their wills, and when that day comes, I will not give a straw for all I have, were I but a looker on. My Lord, as I was this day at *Lincolne*, where I appointed to begin to muster, there came a Messenger from His Majesty, with this Letter, which I held it my duty to acquaint the House with, and likewise my Answer; and am for *Lincolne*, where, as in all other places, I shall be ready to serve your Lordship,

At your most humble Servant,

E. WILLOUGHBY.

My Lord, ere my Letter was sealed up, I could not but give your Lordship an accompt in how good a Posture I found the trained Band of *Lincolne*, which was far beyond my expectation, considering the unhappinesse in the sicknesse, being dispersed in the Town, which hindered the appearance of some; But truly my Lord, there was fully supplied by a company of Volunteers, equal in number and Goodwill of *Ambles* to the trained Bands.

Lincolne. 6. June. 1642.

Charles



Right trusty and well-beloved, We greet you well; whereas we understand that you have begun to assemble, traine, and muster the trained Bands of our County of *Lincolne*, under pretence of an Ordinance of Parliament; whereto we have not given our consent, which is not only contrary to law, but to our command and pleasure signified by our Proclamation sent to the high Sheriffe of that our County, wherefore that you may not hereafter plead ignorance of such our prohibition. We do, by these our Letter, command & charge you, upon your Allegiance to desist and forbear to raise, muster, traine, exercise, or assemble together any part of the trained Bands of that our County, either by your self, or by any others employed under you, or by warrant from you. And because you may, for what you have already done concerning the *Militia* of that our County, plead that you had not so particular a command. We shall passe by what you have already done therein, so as presently upon your receipt hereof you shall desist and give over meddling any further with any thing belonging to the *Militia* of that our County. But if you shall not presently desist and forbear meddling therewith, We are resolved to call you to a strict account for your disobedience therein, as for so many particular and legall Commands given you upon your Allegiance to the contrary, and shall chuse and proceed against you as a disturber of the peace of our Kingdome.

To Our right trusty and welbeloved
Lord Willoughby of Parham.

Given at Our Court at York the fourth
of June, 1642.

SIR,

As there can be nothing of greater unhappinesse to me than to receive a Command from your Majesty, wherunto my endeavours cannot give so ready an obedience, as my affections: so I must confesse the difficulty at this time not a little how to expresse that duty which I owe to your Majesties late commands, and yet not falsifie that trust reposed in me by your high Court of Parliament, through whose particular directions I am now come into this County to settle the *Militia*, according to the ordinance of Parliament; which by the Votes of my Lord *Langston*, and others in the House of Peeres, better vrayed in the laws than my self, passed as a legall thing, and hath since been confirmed (if I mistake not) by his examples and your Majesties chiefe Justice, Sir *John Banks*, both in accepting their Ordinance, and nominating their Deputy Lieutenants, how much farther they proceeded, I know not.

But Sir, if the opinions of those great Lawyers drew me into an act unpleasing to your Majesties liking: I hope the want of yeeres will excuse my want of judgement. And since the command of the Parliament, I am now so far engaged in their service, as the sending out Warrants to summon the County to meet me this day at *Lincolne*, and afterwards in other places: I do most humbly beseech your Majesty not to impose that command on me, which must needs render me false to those that rely on me, and so make me more unhappy, than any other misery can fall upon me.

These things, Sir, I once more humbly beseech your Majesty may be taken into your gracious consideration, and that you would never be pleased to harbour any misconceits of me, or of this action, since nothing hath yet passed by my commands here, or ever shall, but what shall tend to the honour and safety of your Majesties Person, to the preservation of the peace of your Kingdome, and to the content (I hope) of all your Majesties Subjects in these parts; amongst which I remaine

Your Majesties
most humble and most dutifull Subject and Servant,

F. WILLUGHBY.

The Message of the Lords to the House of Commons, Upon the Lord Willoughby of Parham, his Letter and Ser- vice in the Execution of the Ordinance, concern- ing the MILITARY

THE Lords have thought fit to let you know, how much they value and approve the endeavours of this Lord, in & for so much supporting the safety of this King-
dome; and they doubt not of your readinesse to concurre with them, upon all oc-
casions to manifest the service they have, and shall receive of his deservings, which
appeares the greater, by how much the difficulties (by those circumstances you have heard
read) have been greater. And as my Lords resolve to make his interest their owne, in this
service, for the publique good, and safety of this Kingdome, so they desire you to joyne with
them in so good and necessary a work.

Resolved by the House of Commons to joyne with the Lords in this Vote, and doe make
the like resolution for the Deputy-Lieutenants for the County of *Lincolne*, and desire the
Lords to concurre therein.

Ordered by the Lords in Parliament, That they agree with the House of Commons, for
the resolution concerning the Deputy-Lieutenants of the County of *Lincolne*.

To my Noble Brother the Earle of Holland.

Brother,

IN obedience to the order of both Houses of Parliament, I this day repaired to *Barneswood*
(where about one fourth part of the Trained Bands of *Essex* were appointed to meet)
for the putting of the ordinance for the *Militia* of this County in execution. I saw five
Companies drawne out, being of the ordinary Trained Bands, (and all that were de-
signed to this place) whose numbers I found full, and their Armes compleat. For though
about three score Armes had bene formerly taken out of each Company for the late service
about *Southwell*, yet a full supply was made by Volunteers, and one of the said five Com-
panies (being under the conduct of Sir *William Mashams* sonne) was double to the usuall
list. A sixth Company was drawne out, which consisted of neere five hundred able men,
who came as Volunteers under the command of Sir *Thomas Buringtons* younger son. I
caused the Declaration of both Houses made for their indemnity, to be read at the head
of each Company. And requir'd the Capitaines, Officers, and Souldiers to be obedient to such
directions as should be conveyed to them from me, or my Deputy-Lieutenants, according
to the said ordinance for the service of his Majesty and the Parliament, in defence of the
Kingdome. To which they did unanimously manifest a resolution and respect, and a cheer-
full readinesse, therein to spend their lives and fortunes. Hereof I thought fit to give your
Lordship this briefe account, praying you to communicate the same to their Lordships,
I having desired my Deputy-Lieutenants to doe the same to the House of Commons. I have
this day received a Petition from the Capitaines and Lieutenants of the severall Companies
here assembled, in the name of all the persons belonging to the said Trained Bands, and with
their full consent expressed upon the reading of it, by their generall acclamations, and
applause in their severall Companies, whereof I send your Lordship a copy here enclosed.
And so desiring from God a blessing upon all your counsells, I rest,

Barneswood the 7 of June, 1642.

Your Lordships affectionate Brother,
WARVICK.

the most thought Honourable, Robert Earl of Warwick, Lord Lieutenant
of the County of Essex: and to the right Worshipfull and worthy
Gentlemen, the Deputy Lieutenants of the said County, considered in
by the most Honourable, the high Court of Parliament.

WEB the Captaines and Lieutenants with the full consent of the Trained
Bands and Volunteers of the said County now assembled having before the
accession of this present Parliament seen our Religion, our Liberties, our Libe-
ties, and Estates brought to the brink of ruine and subversion by the results
of most desperate and wicked Councils, could not but with exceeding joy behold the assem-
bling and continuance of so great and faithfull a Councell (the representative Body of this
Kingdome) and with most certaine confidence commit thereto all that was decreed unto us:
And having also seen the last hellish designs and actions of a Malignant party of this King-
dom, and the bloody Rebellion in *Ireland*, all working to retard the progresse, or subvert the
being of this worthy Parliament, and therein to bereave us of all our hopes of Reformation;
of future peace, or happinesse to this Church, or Kingdome; We cannot but ascribe all glory
and praise unto the Lord of Lords, and expresse most hearty thankfulness unto his blessed
Instruments that great Assembly, for their undaunted Resolutions, unparalleled endeavours;
and happy proceedings for the common good. And herein (as not the least meanes of our
safely) for the most necessary and seasonable Ordinance, of theirs touching the ordering of
the *Militia*, whereby we are put under the command and guidance of so Noble a Lord, and
high worthy Gentlemen, wherein we humbly desire this present day and meeting may be
an Evidence and pledge of our free and willing obedience.

And having entrusted our Religion, our Lawes, and all into the hands of that great and
most faithfull Councell the Parliament, whose care and fidelity wee have so abundantly
found, we even bleed to see the heart and actions of our Royall King (contrary to his owne
Royall expressions) declining from the Councells of his Parliament, and carried after other
Councells, whose Lawes and Constitutions of this Land hath not knowne, nor re-
posed upon; so we (for our owne parts) neither will, nor dare intrust with our Religion, or
Lawes. And whom we verily beleewe, could they prevaile against that highest Court (under
God our chiefest Bulwarke and defence) would soone deprive us both of Religion and Law,
and (not withstanding all their specious pretences) reduce us to a condition no lesse mis-
erable than slavery.

From the deepe apprehensions of all which we doe freely and heartily promise and ten-
der our persons and estates to assist and defend (to the uttermost) the high Court of Par-
liament now assembled, the members, power, and priviledges thereof, and therein his Ma-
jesties person and authority, and the Kingdomes peace, (according to our late Protestation)
against all contrary counsels, power, and force of Armes whatsoever, which shall be reard
up, or attempted against them.

And this our humble acknowledgement and resolution (which we doubt not will be
accorded unto by all good subjects) we humbly desire your Honour and Worships to render
on our behalfe unto that most Honourable Assembly of Parliament.

For whole happy progresse and successe we shall daily pray.

Trained Bands.

Kitley.	⬤	Tho. Harper.
Henry Farr.	⬤	To. Woodcock.
Captaine John Balle.	⬤	Lieutenant Biob. Lawrence.
John Edmunds.	⬤	Geo. Colwell.
W. Marshall.	⬤	Tho. Clarke.

Volunteers. Robert Barnston. Captaine. William Park. Lieutenant.

...to expresse unto them, the good ends they hold of their proceedings, to much conduce
to the Generall safety of this Kingdom. And having likewise received from them a
renewall of affection, and good inclination, to maintaine our Religion, Lawes,
Priviledges, and Liberties of Parliament, which they observe to be invaded by crime
and treachery, as indeed they have bene of late, in a more dangerous, and high manner
than ever can parallelle. And having very prudently observed, in a right understanding,
that the Kingdom, and the Kings authority and Person, can be no wayes maintained, but by
the upholding the power & priviledges of Parliament, as by the late Protestation they acknow-
ledge themselves bound unto, against all contrary Countells, Power, and force of Armes
whatsoever. This just and faithfull resolution of theirs, to the publike good; The Lords
and Commons doe not onely approve, but command, assuring them, that as their ende-
avors have been for the peace and happinesse of the King and Kingdom; So they will perse-
vere in discharge of the great and publike trust, which lies upon them; to goe through all difficul-
ties which may oppose the publike peace and welfare of this Kingdom; And will upon all
occasions, be ready to expresse particularly, to those persons, that respect which is due to per-
sons whom they have received such assurance of their affections and fidelities.

**A Letter sent to Mr Speaker, from the Commissioners in the County of
Essex, concerning the Militia.**

Master Speaker,

HAVING in obedience to the Order of both Houses attended the Lord Lieu-
tenant of the County of Essex this day to *Brem-Wood*, for the putting of the
Ordinance of the Militia of this County in Execution; his Lordship hath
directed us to give you an account of the service, so farre as it could be
procured, as he hath himselfe done to the House of Lords. There were five
Companies of the ordinary Traine Band, this day drawne into the field,
being about a fourth part of the Trained Bands of this County, and all that were directed
to meet at this place, their numbers were full, and their Armes compleat, a supply being
made by Voluntiers of those Armes that were carried forth of the County, upon the late
expedition for Scotland; and one of the said Companies (being under the charge of Captaine
Massam) was doubled the usuall proportion; a sixth Company did appeare at this place,
consisting of about five hundred Voluntiers, under command of Captaine *Barrington*, for-
gett son of Sir *Thomas Barrington*; The Declaration of both Houses touching their indepen-
dency, was read in the head of each Company, and the Captaines, Officers, and Souldiers
being requir'd by the Lord Lieutenant, to observe such further directions, as in pursuance
of the said Ordinance should be hereafter given them in charge by his Lordship, or by his
Deputy Lieutenants, for the service of His Majesty, and the Parliament, in defence of the
Kingdom, they did unanimously expresse a resolution so to doe, and in the same cheerefully
to spend their lives and fortunes.

Brem-Wood 7 of June 1642.

Thomas Barrington.

William Massam.

William Hicks.

Robert Loomis.

Henry Mildmay.

Har. Grim.

Rice Esmond.

John Barrington.